

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1328 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -
3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?

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VINAYAKRAO S SHUKLA

Versus

STATE OF GUJARAT

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Appearance:

MR KS SHUKLA for Petitioner

MR BY MANKAD FOR M/S MG DOSHIT & CO for Respondents.

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 08/02/99

ORAL JUDGEMENT

This petition has been filed for a direction to the respondent no. 1 to make payment of gratuity amount of Rs. 28,814-95 immediately with interest at the rate of 18% p.m. till the date of payment and settle and pay the remaining amount of provident fund amounting to Rs. 15,000/- with interest at the rate of 18% till the date of payment.

2. The petitioner was working on deputation to the Gujarat State Construction Corporation though he opted for early voluntary retirement. But he retired as a State Government employee on 31-8-1984 on the age of superannuation. The petitioner moved an application for refund of the amount of general provident fund which was forwarded to the Accountant General, Gujarat State through the Government in September, 1984. On the application for refund of general provident fund, only the amount of Rs.5215/- was released on 31-5-1985 and the remaining amount was withheld by the Accountant General. As regards the payment, the respondent no. 1 finally sanctioned the pension on 6-5-1985. But the payment of death-cum-retirement gratuity payable to the petitioner was withheld and that amount comes to about Rs. 20,814-95 ps. The petitioner sent a letter dated 21-11-1985 for expediting the payment of gratuity and balance of the provident fund. In spite of best efforts the amount of gratuity and provident fund has not been paid to the petitioner and hence this petition.

2. This Court by the order dated 27-3-1986 directed the respondents to deposit in this Court a sum of Rs. 12,000/- within two weeks towards gratuity dues of the petitioner and the respondent no. 3 was further directed to file an affidavit-in-reply finalizing the petitioner's account. The petitioner was directed to move this Court for withdrawal of the amount, if deposited by the respondents.

3. List has been revised. But none appears for the petitioner to press this petition nor any affidavit-in-reply has been filed by the respondents.

From the assertions made in the petition, it appears that the payment of death-cum-retirement gratuity and provident fund has not been paid nor the amount as directed by this Court has been deposited in this Court. It is too much for the department in neglecting the claim of the petition as the petitioner is seeking for relief for the payment of his gratuity and provident fund amount since 1984, neither the respondents have paid the same to the petitioner nor an affidavit-in-reply settling the amount has been filed in this case, in compliance of the Court's order dated 27-3-1986.

4. In the facts and circumstances of this case, the respondents are directed to settle and finalize the amount of the petitioner in respect of the payment of death-cum-retirement gratuity and provident fund within a period of three months from the date of this order and

will pay the said amount to the petitioner together with interest at the rate of 18% p.a. till release of the aforesaid amounts if the amount aforesaid has not yet been paid to the petitioner.

5. With this direction, the petitioner stands disposed. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim relief, if any, stands vacated.

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/JVSatwara/